



**U.S. Citizenship
and Immigration
Services**

January 7, 2019

NRC2019002271

David S. Cohen
Milbank, Tweed, Hadley and McCloy LLP
1850 K Street NW, Ste. 1100
Washington, DC 20006

Dear David S. Cohen:

Don't waste time waiting for the US Postal Service to deliver the information you requested. Go online, create an account, and receive the information electronically! Read the attached yellow flyer for more details.

We received your request on January 04, 2019 for information relating to PM-602-0050.1 New NTA Policy. You specifically requested:

- (a) Records Related to the Implementation of the New NTA Policy, PM-602-0050.1
 - (1) All Policy Memoranda and Guidance relating to USCIS's policies and practices for referring cases and issuing NTAs in cases involving inadmissible and deportable aliens from 2000 to the present.
 - (2) All Records related to what criteria USCIS will apply in deciding whether to issue NTAs to individuals whose applications for humanitarian-based visas have been denied, including for U (victims of serious crimes), T (human trafficking), VAWA (for victims of domestic violence), and Special Immigrant Juvenile Status applicants.
 - (3) All Records related to what criteria USCIS will apply in deciding whether to issue NTAs to individuals whose applications for family-based visas have been denied, including 1-485 applicants.
 - (4) All Records related to the implementation of any NTA Policy Memoranda or Guidance, including without limitation, documents concerning or reflecting communications regarding the New NTA Policy.
 - (5) All Records distributed to the USCIS Field Offices and Processing Centers to train immigration officers and applicant adjudicators regarding the New NTA Policy.
 - (6) All Records discussing and relied upon by USCIS for the justification of the New NTA Policy, including how it will enhance public safety, national security and integrity of the immigration system.
 - (7) All Records discussing or relied upon in assessing whether or not the New NTA Policy would create a deterrent effect or "chilling effect" on individuals seeking immigration benefits.
 - (8) All Records relating to how USCIS and/or ICE officers will apply prosecutorial discretion to individuals subject to the New NTA Policy, including training materials for immigration officers or any other personnel tasked with adjudicating USCIS applications.

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(9) All Records reflecting any changes or updates made to any agency manual or administrative guidance after the issuance of the New NTA Policy, including but not limited to the USCIS Policy Manual.

(10) All Records, including internal and external memoranda that discuss the Congressional intent underlying VAWA, U and T visas, and the legality of applying the new NTA policy to VAWA, U and T visas.

(11) All Records, including memoranda or other writing, discussing the decision to not apply the new NTA policy to certain categories of non-citizens, e.g., Temporary Protected Status, Deferred Action for Childhood Arrivals (DACA) recipients, employment-based petitions, etc.

(12) All Records, including memoranda or other writing, regarding the application or decision to not apply the New NTA Policy to applications for employment-based application.

(13) All Records, including memoranda or other writing created by USCIS, discussing the October 1, 2018 implementation date of the New NTA Policy for I-485 and I-539 applications.

(14) All Records, including memoranda or other writing created by USCIS, discussing the November 17, 2018 implementation date of the New NTA Policy based on denials of Forms I-914/I-914A, Applications for T Nonimmigrant Status; I-918/I-918 Petitions for U Nonimmigrant Status; I-360 Petition for Amerasian, Widow(er), or Special Immigrant (Violence Against Women Act self-petitions and Special Immigrant Juvenile petitions); Form I-929, Petition for Qualifying Family Member of a U-1 Nonimmigrant; I-730 Refugee/Asylee Relative Petitions; and I-485 Applications to Register Permanent Residence or Adjustment of Status with these underlying form types.

(15) All Records, including memoranda or other writing created by USCIS, discussing the legality of the New NTA Policy.

(16) All Records, including any memoranda or other writing created by USCIS, discussing any cost and benefit analysis or feasibility study of the impact of the New NTA Policy, including the impact it would have on adjudication times of all outstanding applications.

(17) All Records and communications between and among USCIS, the DOJ, ICE, the Office of the Attorney General, DHS, and any other government agency regarding the implementation of the New NTA Policy.

(18) All Records indicating the effect that the new NTA policy would have on survivors of domestic and sexual violence (VAWA self-petitioners), human trafficking (T Visa) and crime victims (U Visa applicants).

(b) Data and Statistics Related to the Issuance of NTAs, RTIs, RFEs, and NOIDs from 2000 to the Present

(1) The Number of NTAs in total issued by USCIS by year for the years 2017 to the Present.

(2) The Number of NTAs in total issued by USCIS for each year from 2000 to the present, broken out by the grounds for issuing the NTA, including, but not limited to, the number of NTAs issued between 2000 and the Present issued on the basis that:

- (a) There was fraud or misrepresentation in the application;
- (b) The applicant had abused public benefits;
- (c) The applicant represented a threat to National Security;

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- (d) The applicant was convicted of or accused of an Egregious Public Safety (EPS) crime or violation;
 - (e) The applicant was convicted of a Non-Egregious Public Safety crime;
 - (f) The applicant was not lawfully present; or
 - (g) any other reason offered by USCIS for issuing the NTA.
- (3) The Number of applications submitted, granted, denied, and NTAs issued (and the basis of the NTA, e.g. fraud, national security, public safety, etc.) by USCIS for all years from 2000 to the present, broken down by the type of benefit that the applicant applied for, including, but not limited to:
- (a) I-485 applications, Adjustment of Status, in general;
 - (b) I-485 applications, where the Adjustment of Status is based on a qualifying family relationship, including, but not limited to, immediate relatives of US Citizens, Other Relatives of a US System [sic] or lawful permanent resident, K Visa applicants, Widow or Widowers of a US citizen, and VAWA self-petitioners;
 - (c) I-485 applications, where the Adjustment of Status is based on qualifying employment;
 - (d) I-485 applications, where the Adjustment of Status is based on a humanitarian reason, including, but not limited to, a previously approved T visa applicants, U Visa applicants, Special Immigrant Juvenile Status applicants, Asylum & Refugee Status (Form I-589 or I-730) applicants
 - (e) I-867 or I-889 applications, based on a positive credible fear finding;
 - (f) N-400 Naturalization applications;
 - (g) I-589, applications for asylum;
 - (h) I-730 Refugee/Asylee Relative Petitions applications;
 - (i) I-360, applications for Amerasian, Widow(er), or Special Immigrant in general;
 - (j) I-360, applications for Special Immigrant Juvenile Status (SIJS);
 - (k) I-360, applications for Violence against Women Act (VAWA) status;
 - (l) I-918/I-918A applications for U Nonimmigrant Status;
 - (m) I-914/I-914A, applications for T Nonimmigrant Status;
 - (n) I-131 applications;
 - (o) NACARA 203 Applications;
 - (p) I-601a applications for Waiver of Inadmissibility;
 - (q) I-730 applications, Refugee/Asylee Relative Petition;
 - (r) I-821, Application for Temporary Protected Status;
 - (s) I-821D, Application for Deferred Action on Childhood Arrivals;
 - (t) I-765, Application for Employment Authorization;
 - (n) I-751, Petition to Remove Conditions on Residence;
 - (v) I-817, Application for Family Unity Benefits; or
 - (w) any other application adjudicated by USCIS ;
- (4) The number of cases that a USCIS officer referred a N-400 application to the NTA Review Panel from 2000 to the present and the number of cases in which the NTA

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Review Panel decided to issue an NTA, declined to issue an NTA, referred the case to ICE, or took other action .

(5) The Number of RFEs and NOIDs issued by USCIS for each year from 2000 to the present, including as broken out by the grounds for issuance of the RFE or NOID;

(6) The Number of cases denied subsequent to the issuance of an RFEs and/or a NOID issued by USCIS for each year from 2000 to the present, broken down by the different grounds for issuance of the RFE, or NOID

(7) The Number of Referrals to ICE ("RTIs") made by USCIS made between 2000 to the Present, broken down by the different grounds that the RTI was issued.

Your request is being handled under the provisions of the Freedom of Information Act (5 U.S.C. § 552). It has been assigned the following control number: NRC2019002271. Please cite this number in all future correspondence about your request.

We respond to requests on a first-in, first-out basis and on a multi-track system. Your request has been placed in the complex track (Track 2). You may wish to narrow your request to a specific document in order to be eligible for the faster track. To do so, please send a written request, identifying the specific document sought, to the address above. We will notify you if your request is placed in the simple track.

Because of the subject matter and because of your demonstrated ability to disseminate information to the public, USCIS will grant this request for fee waiver.

Based on the information you provided, we have determined that expedited processing of your request is not warranted. The Departmental regulation at 6 C.F.R. § 5.5(e)(1) requires that you demonstrate that your request warrants expedited treatment because it involves:

- (i) Circumstances in which the lack of expedited processing could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;
- (ii) An urgency to inform the public about an actual or alleged federal government activity, if made by a person who is primarily engaged in disseminating information;
- (iii) The loss of substantial due process rights; or
- (iv) A matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence.

You have not sufficiently shown an urgency to inform the public.

You have the right to file an administrative appeal within 90 days of the date of this letter. By filing an appeal, you preserve your rights under FOIA and give the agency a chance to review and reconsider your request and the agency's decision. You may file an administrative FOIA appeal to USCIS at: USCIS FOIA/PA Appeals Office, 150 Space Center Loop, Suite 500, Lee's Summit, MO 64064-2139. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

If you would like to discuss our response before filing an appeal to attempt to resolve your dispute without going through the appeals process, you may contact our FOIA Public Liaison, Jill Eggleston, for assistance at:

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U.S. Citizenship and Immigration Services
National Records Center, FOIA/PA Office
P. O. Box 648010
Lee's Summit, MO 64064-8010

Telephone: 1-800-375-5283

E-Mail: FOIAPAQuestions@USCIS.DHS.GOV

If you are unable to resolve your FOIA dispute through our FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, offers mediation services to help resolve disputes between FOIA requesters and Federal Agencies. The OGIS does not have the authority to handle requests made under the Privacy Act of 1974. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road – OGIS
College Park, MD 20740-6001

Telephone: 202-741-5770

877-684-6448

Email: OGIS@NARA.GOV

Website: OGIS.ARCHIVES.GOV

Consistent with 6 C.F.R. § 5.5(a) of the Department of Homeland Security (DHS) FOIA regulations, USCIS processes FOIA requests according to their order of receipt. Although USCIS' goal is to respond within 20 business days of receipt of your request, FOIA does permit a 10-day extension of this time period in certain circumstances. Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Additionally, due to the scope and nature of your request, USCIS will need to locate, compile, and review responsive records from multiple offices, both at headquarters and in the field. USCIS may also need to consult with another agency or other component of the Department of Homeland Security that have a substantial interest in the responsive information. Due to these unusual circumstances, USCIS will invoke a 10-day extension for your request pursuant to 5 U.S.C. § 552(a)(6)(B). Please contact our office if you would like to limit the scope of your request or to agree on a different timetable for the processing of your request. We will make every effort to comply with your request in a timely manner.

In accordance with Department of Homeland Security Regulations (6 C.F.R. § 5.3(c)), your request is deemed to constitute an agreement to pay any fees that may be chargeable up to \$25.00. Fees may be charged for searching for records sought at the respective clerical, professional, and/or managerial rates of \$4.00/\$7.00/\$10.25 per quarter hour, and for duplication of copies at the rate of \$.10 per copy. The first 100 copies and two hours of search time are not charged, and the remaining combined charges for search and duplication must exceed \$14.00 before we will charge you any fees. Most requests do not require any fees; however, if fees in excess of \$25.00 are required, we will notify you beforehand.

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This office now offers an online delivery option. If you would like to receive the requested records online, you will need to register this request at <https://first.uscis.gov>. If you do not already have a MyUSCIS account you will be prompted to create one. Once logged on, click the "Register Request" link where you will be asked to enter your control number NRC2019002271 and the following six digit PIN: 382934. If you do not wish to take advantage of this option, we will be providing your records on a Compact Disc (CD) for use on your personal computer. To request your responsive records on paper, please include your control number and write to the above address Attention: FOIA/PA Officer, or fax them to (816) 350-5785.

The National Records Center (NRC) has the responsibility to ensure that personally identifiable information (PII) pertaining to U.S. Citizenship and Immigration Services (USCIS) clients is protected. In our efforts to safeguard this information, we may request that additional information be provided to facilitate and correctly identify records responsive to your request. Though submission of this information is voluntary, without this information, your request may be delayed while additional steps are taken to ensure the correct responsive records are located and processed. Further, if we are unable to positively identify the subject of the record we may be unable to provide records responsive to your FOIA request.

You may check the status of your FOIA request online, at www.uscis.gov/FOIA. Click the "Check Status of Request" button in the middle of the web page or "FOIA Request Status Check & Average Processing Times" on the left side under "Freedom of Information and Privacy Act (FOIA)." Then click "FOIA Check Status of Request" at the bottom of the page and follow the instructions given. If you have any questions concerning your pending FOIA/PA request, or to check the status of a pending application or petition, please call The National Customer Service Center at 1-800-375-5283. Please be aware that the National Records Center no longer accepts FOIA/PA related questions directly by phone.

All FOIA/PA related requests, including address changes, must be submitted in writing and be signed by the requester. Please include the Control Number listed above on all correspondence with this office. Requests may be mailed to the FOIA/PA Officer at the PO Box listed at the top of the letterhead, emailed to USCIS.FOIA@uscis.dhs.gov, or sent by fax to (816) 350-5785. You may also submit FOIA/PA related questions to our email address at FOIAPAQuestions@uscis.dhs.gov.

Sincerely,



Jill A. Eggleston
Director, FOIA Operations